



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**[WTB Docket No. 18-133; DA 18-454]**

**Metro Two-Way, LLC; Notice of Hearing**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document commences a hearing to determine whether Metro Two-Way, LLC (Metro) is qualified to be and to remain a Federal Communications Commission (Commission) licensee, and as a consequence thereof, whether any or all of its licenses should be revoked, and whether its pending application should be denied. As discussed more fully below, based on the totality of the evidence, there are substantial and material questions of fact as to whether Metro repeatedly made misrepresentations to and lacked candor with the Commission in its submission of several applications in connection with various Wireless Radio Service authorizations.

**DATES:** Each party to the proceeding (except for the Chief, Enforcement Bureau), in person or by counsel, shall file with the Commission, by May 23, 2018, a written appearance stating that the party will appear on the date fixed for hearing and present evidence on the issues specified herein.

**FOR FURTHER INFORMATION CONTACT:** Pamela Kane, Special Counsel, Enforcement Bureau, (202) 418-2393.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing (Order) in WTB Docket No. 18-133, DA 18-454, adopted on May 2, 2018, and released on May 3, 2018. The full text of the Order is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY-A257, Portals II, Washington, DC 20554. This document is available in alternative formats (computer diskette, large print, audio record, and

Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

### **Synopsis**

1. In this Order, the Commission commences a hearing proceeding before a Commission Administrative Law Judge to determine whether the pending application of Metro Two-Way, LLC should be granted, and whether Metro's licenses should be revoked. Metro represented to the Commission in five license applications that no party directly or indirectly controlling Metro has ever been convicted of a felony by any state or federal court. The information before us indicates that Hector Manuel Mosquera, a party directly or indirectly controlling Metro, was convicted of a felony by a state court in California.

2. Accordingly, it is ordered, pursuant to sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), and 312(c) of the Act, 47 U.S.C. §§ 309(e), 312(a)(1), 312(a)(2), 312(a)(4), 312(c), that Metro Two-Way, LLC shall show cause why the authorizations for which it is the licensee set forth in Attachment A should not be revoked, and that the above-captioned application filed by Metro Two-Way, LLC is designated for a hearing in a consolidated proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

- (a) To determine whether Hector Manuel Mosquera directly or indirectly controls Metro.
- (b) To determine whether Metro engaged in misrepresentation and/or lack of candor in its applications with the Commission.
- (c) To determine whether Metro failed to amend its pending application, in willful and/or repeated violation of section 1.65 of the Commission's rules.
- (d) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Metro is qualified to be and remain a Commission licensee.
- (e) To determine, in light of the foregoing issues, whether the authorizations for which Metro is the licensee should be revoked.

(f) To determine, in light of the foregoing issues, whether the captioned application filed by or on behalf of Metro should be granted.

3. It is further ordered that, in addition to the resolution of the foregoing issues, it shall be determined, pursuant to section 503(b)(1) of the Act, 47 U.S.C. § 503(b)(1), whether an order of forfeiture should be issued against Metro in an amount not to exceed the statutory limit for the willful and/or repeated violation of each rule section above for which the statute of limitations in section 503(b)(6) of the Act, 47 U.S.C. § 503(b)(6), has not lapsed.

4. It is further ordered that, pursuant to section 312(c) of the Act and sections 1.91(c) and 1.221 of the rules, 47 U.S.C. § 312(c) and 47 CFR §§ 1.91(c), 1.221, to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Metro, in person or by an attorney, shall file with the Commission, within 20 calendar days of the release of this Order, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above.

5. It is further ordered that, pursuant to section 1.91 of the rules, 47 CFR § 1.91, if Metro fails to file a timely appearance, its right to a hearing shall be deemed to be waived. In the event the right to a hearing is waived, the Chief Administrative Law Judge (or presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. In addition, pursuant to section 1.221 of the Commission's rules, 47 CFR § 1.221, if any applicant to the captioned application fails to file a timely written appearance, the captioned application shall be dismissed with prejudice for failure to prosecute.

6. It is further ordered that the Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

7. It is further ordered that pursuant to section 312(d) of the Act, 47 U.S.C. 312(d), and section 1.91(d) of the Commission's rules, 47 CFR 1.91(d), the burden of proceeding with the

introduction of evidence and the burden of proof shall be upon the Enforcement Bureau as to the issues at 15(a)-(e), above, and that, pursuant to section 309(e) of the Act, 47 U.S.C. 309(e), and section 1.254 of the Commission's rules, 47 CFR 1.254, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon Metro as to the issue at 15(f), above.

8. It is further ordered that Mobile Relay Associates shall be made a party to this hearing in its capacity as a petitioner to the captioned application.

9. It is further ordered that a copy of this document, or a summary thereof, shall be published in the Federal Register.

Federal Communications Commission.

**Scot Stone,**

*Deputy Chief, Mobility Division.*

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